

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LINDA THOMPSON,

Plaintiff,

v.

GATE GOURMET INC., *et al.*,

Defendants.

CASE NO. C21-0510-JCC

ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge (Dkt. No. 15) and Plaintiff Linda Thompson’s objections thereto (Dkt. No. 16). Having thoroughly considered the parties’ briefing and the relevant record, the Court finds oral argument unnecessary and hereby ADOPTS the R&R and OVERRULES the objections for the reasons explained herein.

Ms. Thompson initiated this wrongful termination lawsuit against Gate Gourmet in King County Superior Court, raising nine causes of action. (*See* Dkt. No. 1-2 at 5–10.) After Gate Gourmet removed the case to federal court, Ms. Thompson moved for voluntary dismissal of her breach of contract claim. (*See* Dkt. Nos. 1, 6.) Shortly thereafter, Ms. Thompson moved to remand. (*See* Dkt. Nos. 8, 14.) Judge Christel issued an R&R recommending that the Court deny both motions. (*See generally* Dkt. No. 15.) Ms. Thompson lodged objections to the R&R, which are presently before the Court. (*See* Dkt. No. 16.)

1 A district judge reviews objections to a magistrate judge's R&R *de novo*. Fed. R. Civ. P.
2 72(b)(3). The Court may accept, reject, or modify the recommended disposition; receive further
3 evidence; or return the matter to the magistrate judge with instructions. *Id.*

4 Ms. Thompson argues that Judge Christel erred in concluding that voluntary dismissal
5 pursuant to Federal Rule of Civil Procedure 41(a)(1) cannot be used to dismiss individual claims
6 against a defendant. (*See* Dkt. No. 16 at 2.) The Court disagrees with Ms. Thompson. The Ninth
7 Circuit has held that the provision cannot be used in this manner. *See Hells Canyon Preservation*
8 *Council v. U.S. Forest Service*, 403 F.3d 683, 687–88 (9th Cir. 2005) (the rule “does not allow
9 for piecemeal dismissals”).

10 Ms. Thompson next argues that Judge Christel erred in finding that the Railway Labor
11 Act (“RLA”), 45 U.S.C. § 151 *et seq.*, controls her breach of contract claim, thereby establishing
12 this Court’s federal question jurisdiction. (*See* Dkt. No. 16 at 3–4.) She suggests that preemption
13 in this context is an affirmative defense and therefore cannot serve as the anchor for federal
14 question jurisdiction. (*Id.* at 3–4.) Again, the Court disagrees with Ms. Thompson. “The RLA
15 creates ‘a comprehensive framework for resolving labor disputes’ in the rail and airline
16 industries.” *Alaska Airlines Inc. v. Schurke*, 898 F.3d 904, 916 (9th Cir. 2018) (quoting
17 *Hawaiian Airlines, Inc. v. Norris*, 512 U.S. 246, 252 (1994)). “Once preempted, ‘any claim
18 purportedly based on [a] . . . state law is considered, from its inception, a federal claim, and
19 therefore *arises under* federal law.’” *Burnside v. Kiewit Pac. Corp.*, 491 F.3d 1053, 1059 (9th
20 Cir. 2007) (alteration in original) (quoting *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 393
21 (1987)).

22 For the foregoing reasons, the Court OVERRULES Ms. Thompson’s objections (Dkt.
23 No. 16) and ADOPTS Judge Christel’s R&R. Ms. Thompson’s motions for voluntary dismissal
24 (Dkt. No. 6) and remand (Dkt. No. 8) are DENIED.

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1 DATED this 5th day of August 2021.

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5 John C. Coughenour
6 UNITED STATES DISTRICT JUDGE
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